

Sons of Something: Taxes, Lawsuits and Local Political Control in Sixteenth Century Castile*

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Abstract:

The widespread ennoblement of the Spanish bourgeoisie in the Early Modern period has been traditionally considered one of the main causes of the Spanish “crisis of the seventeenth century.” I provide the first quantitative assessment of the scale and characteristics of ennoblement through a new time series of nobility cases preserved in the Archive of the Royal Chancery Court of Valladolid. Contrary to established scholarship, I find that the tax exemptions granted to nobles cannot alone explain the flight to privilege, since ennoblement was more costly than the present value of the future tax benefits. My data strongly suggests that the central motivation behind ennoblement was to gain control of local governments and acquire decision-making power over communal resources. Finally, while ennoblement reflected a high level of redistributive activity, there is no evidence in the archival record linking it to economic stagnation in Spain.

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1. Introduction.

The economic and political transformations of Spain in the Early Modern period, first rising to the helm of a global empire and then dramatically losing population and productive strength, are among the quintessential topics in European economic history.¹ While the literature has gradually moved to emphasize the role played by institutions, it has mostly stopped short of a detailed primary-source based analysis of the institutional structures that are normally identified as the main brake on Spanish economic growth, such as the monarchy, the nobility, the trade, craft and shepherd guilds, and the Catholic Church. The improved access and cataloguing of the vast archival resources on Early Modern Spain offer now a unique opportunity to apply what Greif (2006) terms “the empirical method of institutional analysis” to this timeless problem.

As part of a wider research agenda on the institutional foundations of Early Modern Spain, this paper takes a close look at the Castilian lower nobility, the *hidalgos* of Don Quixote fame, on whom scholars of the calibre of Carlo Cipolla, Fernand Braudel, J. H. Elliott, and David Landes among others have squarely placed the blame of spreading a mentality of idleness and a disdain for manual labour.² The number of petty nobles, who were exempt from direct taxes and enjoyed several legal and social privileges, is widely believed to have rapidly grown during the sixteenth century in response to the increasing fiscal pressure of the Habsburg monarchs and the appeal of living a “noble life.” Since *hidalgos* were legally impeded from engaging in trade and industry, and since all their legitimate male sons inherited the title in perpetuity, the foregone conclusion is

¹ Major works on Early Modern Spain have continued to appear at a sustained rate in the last decade. For just three very recent influential examples, see Marcos Martín (2000), Kamen (2003) and Yun (2004). For an institutionalist treatment of the Spanish case within a wider European context, see North and Thomas (1973) and Acemoglu et al. (2005).

² The references to *hidalgos* and the “*hidalgo* mentality” can be found in Elliott (1963), p.115-117; Braudel (1972), p. 520-523; Cipolla (1980), p. 237-241; and Landes (1999), p. 172-173. MacKay (2006) provides a strongly revisionist view, which is consistent with the findings in this article.

that such a social migration resulted in a large misallocation of talent. Braudel saw in the flight to nobility a failure to nurture capitalism to full maturity, and scornfully christened it “the treason of the bourgeoisie.”³ This traditional interpretation suggests obvious links with the literature on the allocation of talent in the style of Baumol (1990) and Murphy et al. (1991), which argues that the inefficient allocation of human capital in rent seeking environments may have a stifling effect on economic growth. The archival record, however, is largely silent about whether *hidalgos* complied with the legal restrictions on their economic activity; what little evidence there is suggests that violations were generalized, while no attempts to enforce compliance are present in the data.

Contrary to the widespread belief that large numbers of *hidalguías* were sold by the Crown, the almost exclusive gateway into the lower nobility in the sixteenth century was litigation in one of the two Royal Chancery Courts of the kingdom. The holdings of the Archivo de la Real Chancillería de Valladolid, well known to genealogists but barely exploited by social scientists, are a treasure trove for the study of *hidalguía*. In a first attempt to characterize the temporal evolution of the institution, I have compiled a time series of the surviving 42,313 cases filed with the Valladolid Chancery Court, which had jurisdiction over the northern half of Castile. The series, which extends between 1490 and 1834, shows a large increase in legal activity in the mid-sixteenth century, thus confirming the impression that the pace of ennoblement was fastest during that period.

While the argument for the treason of the bourgeoisie seems unpersuasive, a careful examination of the archival record points to a different and more compelling rent-seeking scenario. It starts by challenging the conventional wisdom that places tax exemptions at the centre for of the quest for

³ Braudel (1972), p. 517.

nobility while ignoring or summarily treating the remaining entitlements of *hidalgos*. By matching lawsuit costs to tax data, I show that the fiscal benefits of ennoblement could not alone have justified its cost. The evidence points instead to the acquisition of municipal offices and the control over common resources that came with them as the main reason – the “central transaction” in Greif’s terms – behind the quest for nobility.⁴ Such a finding frames the *hidalgo* problem as an eminently local issue and places it firmly into the rent seeking literature, which has made surprisingly little foray into the study of Spanish institutions.⁵

I then trace a distinction between nobility lawsuits, which commoners used to attain noble status, and distributive lawsuits, which existing *hidalgos* used to wrestle control of municipal offices from incumbent commoners, and consider the efficiency costs of redistributive and ennoblement activities revealed by archival documents. I find that in the towns with high levels of litigation the transfers to central courts, lawyers and royal officials were large enough to cripple local economies and forestall their possibilities of growth.⁶ In most towns, however, redistribution took place without costly litigation, eliminating net losses to the local economy and resulting in mere transfers from commoners to nobles.⁷ The non-compliance of *hidalgos* with the requirement of abstaining from manual work also reduces the likelihood that ennoblement resulted in a misallocation of human capital. *Hidalgos* may have been resented by the commoners they displaced from town governments and loathed by eighteenth and nineteenth

⁴ Greif (2006), p. 47.

⁵ See Ekelund and Tollison (1997) for an example mostly focused on the Mesta.

⁶ A substantial literature exists on the relationship between rent seeking and economic growth; see Murphy et al. (1993), DeLong and Shleifer (1993), Tornell and Lane (1999).

⁷ For a model where rent seeking can occur while open conflict remains off the equilibrium path see González (2005).

century liberal reformers; they are, however, unlikely to have exerted any significant influence on Spanish economic performance.

The article proceeds as follows. Section 2 characterizes the institution of *hidalguía* and introduces a new time series of ennoblement lawsuits. Section 3 discusses distributive litigation. Section 4 combines the historical evidence and primary source data on both types of litigation to support the central arguments of the paper. Section 5 summarizes my findings and explores their implications.

2. The nature and evolution of *hidalguía*.

Hidalgos: the Sons of Something.

The very word *hidalgo* embodies the nature of those who wore the title with pride; while even its origin has been unable to escape dispute, the most commonly accepted etymology is *hijo de algo*, literally “son of something” (where “something” means “someone of value”). The oldest *hidalgo* families claimed to be able to trace their origins to the Visigothic lineages of the days before the Muslim invasion of the peninsula in 711 A.D., and to have gained their status through distinguished military service to the monarchs of the northern kingdoms in the course of the *Reconquista*. During the Middle Ages, *hidalgos* were in fact expected to maintain weapons and a horse, and to join the king’s army whenever called to war; in return, they were granted special privileges, foremost among which the exemption from royal and municipal taxes.⁸

⁸ *Hidalguía*, in its most open meaning, is synonym with nobility; all Spanish nobles, including grandees and *títulos* (dukes, marquises, counts and viscounts), were technically *hidalgos*. I am not concerned with those upper echelons, and will therefore use the word in its narrow sense, designating the lower nobility that, while always striving to climb the ranks of society, was just one step above the plain commoner. For a thorough discussion of the structure of the Spanish nobility see Domínguez Ortiz (1985). For an excellent historical survey on the several social strata that gradually converged into Early Modern *hidalgos*, see Díaz de la Guardia (2005), chapters 1-4.

While tax exemptions were the most transparent and visible attribute of *hidalgo* status, they were not always the most valuable one.⁹ Direct taxes were no longer a significant burden in the first half of the sixteenth century, and in many towns they were even assessed on a capitation basis, making them virtually negligible for the rich. *Hidalgos*, however, also enjoyed preferential access to municipal offices under the system called *mitad de los oficios*, which reserved half of the top positions in the local government for them.¹⁰ Their privileges under criminal law were paramount: they could not be tortured, flogged or exposed to public shame; if jailed, they had to be kept separate from the commoners; they could not be sent to the galleys, and, if sentenced to death, they had the right to be beheaded rather than hanged. Perhaps their most valuable immunity on a practical basis was the exemption from prison by reason of debt. That *hidalgos* were entitled by law to enjoy all these privileges, however, does not mean that local authorities always bowed to them – a point which I shall return to below.

A much debated attribute of *hidalguía* is its theoretical incompatibility with the so-called “mechanical” and “vile” professions, virtually any occupation that involved manual work, together with tax collection (but not tax farming) and a few other outcast activities.¹¹ The increase in the number of *hidalgos* in the sixteenth century has been repeatedly singled out as one of the reasons behind the “crisis of the seventeenth century,” as more and more successful merchants and traders supposedly abandoned their activities to live off the rents of the land or of

⁹ So indissoluble were *hidalgo* status and the exemption from royal and municipal *pechos* that someone who did not pay them and remained unchallenged would in time be recognized as an *hidalgo*, while paying them at any point without protest would jeopardize any chances of affirming an *hidalguía*. Such identity is again etched into the language: the Spanish word for a commoner is *pechero*, someone who pays direct taxes. See Thompson (1987) for a discussion on the language of class distinction in Spain.

¹⁰ While the system of *mitad de los oficios* has normally received very little attention in the scholarly literature, the recent doctoral dissertation by Díaz de la Guardia (2005) is now a mandatory reference for its study.

¹¹ Some insightful works on “mechanical and vile” occupations are Domínguez Ortiz (1945), Díez (1990) and MacKay (2006).

tax farms. Clearly such a prohibition was not universally enforced, as it would have been a practical impossibility for everyone to abstain from manual work in areas that enjoyed universal *hidalguía*.¹² Sixteenth and seventeenth-century craftsmen and traders (so Ruth MacKay has recently shown) did not distinguish occupations between “vile” and “noble” ones; the linguistic expressions was in fact introduced by the eighteenth century liberal reformers in order to further their political agenda.¹³ Perhaps the clearest evidence that *hidalgos* did not worry too much about steering clear of manual tasks is found in the lawsuits themselves. While one would not expect a claimant of nobility to disclose in front of a court that he held a supposedly incompatible occupation, that is exactly what happened from time to time.¹⁴ At least in the sixteenth century no one seemed very concerned that *hidalgos* got their hands dirty with manual labor.

It has long been contended that the number of *hidalgos* swelled in the sixteenth century, but the dynamics, magnitude and significance of this phenomenon have not been the subject of a thorough scholarly discussion so far. A very common misconception is that the increase in the *hidalgo* ranks was the result of massive sales of letters of privilege on the part of the Crown during the reigns of Charles V and Philip II; the myth has continued to surface every now and then, even in the face of Thompson’s categorical refutation.¹⁵ Sales of *hidalguías* were indeed an extremely rare occurrence as a result of the nature of the privilege itself. The archetypical

¹² The natives of Biscay, for example, were all considered *hidalgos*. See Marcos Martín (2000), p. 301.

¹³ MacKay (2006).

¹⁴ In the lawsuit of Benito de Caldas (SHP 68.3) the original complaint stated that the claimant was an ironsmith. Apparently someone noticed the blunder, as the word “*herrador*” was hastily crossed out; it was not, however, a sufficient source of concern for the scribe to rewrite the entire page. In a different case, a copy of an *ejecutoria* from 1547 states that Hernán García, from Tordesillas, was a carpenter (SHP 1646.1). In both cases the claimants were successful in gaining noble status. Finally, in a distributive lawsuit from Peñafiel in 1582, the town contended that *hidalgos* should have been forbidden from discharging two public offices at the same time; the case arose because one *hidalgo* had been elected mayor while at the same time working in the butcher shop, a city-operated establishment (PAF 538.5).

¹⁵ Thompson (1979). For two notable examples where the incorrect view receives attention see Elliott (1963), p. 116 and Nadal (2001), p. 40.

hidalgo was someone who could trace his lineage to the medieval noble families of old, whose first noble ancestor was lost in time immemorial, and whom people would recognize as a noble person without the need of an intervening authority. Paying for the privilege was the ultimate admission that one did not deserve it. While patents of *hidalguía* remained available for sale, the Crown understood that they would only be bought by the most desperate persons, and set accordingly exorbitant prices for them. Thompson's exhaustive analysis of the sales of *hidalguías* uncovered an utterly insignificant grand total of 72 royal letters of privilege for the whole kingdom of Castile in the sixteenth century.¹⁶

The lawsuits over hidalguía.

When an *hidalguía* was challenged, usually by a town council that tried to collect direct taxes from its holder, the individual claiming to be an *hidalgo* could only affirm his status by suing the town in one of the two Royal Chancery Courts of Castile, which resided at Valladolid and Granada. The Chancery Courts (*chancillerías*) were the highest tribunals in the kingdom short of the Royal Council, and, from the fifteenth century onwards, had exclusive jurisdiction in all cases concerning the dispute of an *hidalguía*, which were heard by a special chamber called the *Sala de Hijosdalgo*.¹⁷ To distinguish them from the "distributive lawsuits" described in the next section, I shall refer to lawsuits over *hidalguía* as "nobility" or "ennoblement" lawsuits.

To win a lawsuit, a claimant of *hidalguía* would have to prove, at a minimum, that his father and grandfather had been *hidalgos*, widely reputed as such in the places where they had lived. He had therefore to produce witnesses that had known (or claimed to have known) his father and

¹⁶ Thompson (1979), p. 357.

¹⁷ The mandatory source for the structure and operation of the *Sala de Hijosdalgo* is Martín Postigo and Domínguez Rodríguez (1990), on which virtually all my references on the functioning of the chamber are based. A thorough historical and juridical treatment of the lawsuit of *hidalguía* can be found in Díaz de la Guardia (2005), chapter 3.2.

grandfather, and could confirm their status. The town council, together with the king's prosecutor (who intervened ex-officio in all lawsuits of *hidalguía*), would try to show that the claimant or his ancestors were not *hidalgos*, presenting evidence that they had paid direct taxes or had not enjoyed certain criminal or legal privileges. Alternatively, they could try to find one or more impediments to their *hidalguía*, such as being illegitimate sons or having Jewish ancestry.¹⁸

If the claimant won the case, upon receiving a favourable final sentence (which might not come until after one or two appeals) he could ask the court to issue a final writ, called a *carta ejecutoria*, which summarized the lawsuit and ordered all authorities in the kingdom to recognize its holder as an *hidalgo*.

Lawsuits were not cheap; a claimant had to retain attorneys in Valladolid or Granada, pay a number of court and secretarial fees, pay for the travel, room and board of witnesses called to testify on his behalf from remote locations and, if successful, pay the fee for the issuance of the *carta ejecutoria*. In addition, more or less overt bribes and gifts to several court officials were essential to ensure that the proceedings would move forward at a reasonable pace.

Two cheaper legal devices, albeit of lower standing than a lawsuit, were available to claimants of *hidalguía*. An *hidalgo* who anticipated a legal challenge or feared that his supporting witnesses could die or relocate could register the depositions of those witnesses with the court in a document called *probanza ad perpetuam rei memoriam* (which, for lack of a better term, I shall

¹⁸ As a result, the prosecution often presented very colorful stories. The lawsuit of St. Theresa's father contains a copy of the Inquisition proceedings that documented how his grandfather had converted from Judaism and had been forced to wear the shameful robe of the *conversos* for two months (Ejido 1986). In the lawsuit of Benito de Caldas in 1544 witnesses for the prosecution testified that his grandfather had been held in a common jail and sentenced to lashes for petty theft (SHP 68.3). In the lawsuit of Alonso de Melgar in 1556, in a standard contention, the prosecutor alleged that he was the son of "plain commoners, converted Jews, adulterous and incestuous" (SHP 871.8). Similarly, in the lawsuit of the brothers Gaspar and Francisco de Villodas in 1554, the town produced witnesses who testified that their grandfather had been a clergyman, and hence their father was an illegitimate child (SHP 351.3). Melgar lost his case, but all the others were able to have their *hidalguías* confirmed despite the obvious impediments.

hereafter call “deposition”). The town and the king’s prosecutor normally did not intervene in the process and the document was not enforceable by itself; it could, however, be used as evidence in lawsuits, and therefore its existence could conceivably deter future legal challenges. Another possibility was to request a *royal provision* from the court, which certified the “known status” of its holder. The town and the king’s prosecutor normally opposed the claim of *hidalguía* in the legal proceedings (called *expedientes provisionales*, translated here as “provisional files”), which, although reminiscent of lawsuits, were simpler, faster and cheaper. They did not result in a *carta ejecutoria*, though, which remained the only enforceable document. Royal provisions became mandatory in the eighteenth century for *hidalgos* moving to another jurisdiction to become registered as such, causing a large increase in their numbers.¹⁹

The Archive of the Royal Chancery Court of Valladolid is an invaluable source of information on the judicial route to nobility.²⁰ With the exception of short interruptions forced by the plague or the presence of the king’s entourage in town, the court resided in the same Valladolid palace throughout its entire existence. Its archive opened in the early years of the seventeenth century as a venal office, and gradually acquired the records from the court secretaries, who had until then treated the files as their personal property. Since the holder of the records could charge for access to them, there was a continuous interest in preserving their integrity; while some files must have certainly gone missing, the holdings of the archive can be reasonably trusted to provide broad and representative coverage of the universe of cases heard by the court. In a 100% hand check of one of the eight inventory books describing the transfer of lawsuit files from the secretaries to the archive since the seventeenth century, I found that over 93% of the files originally entrusted to

¹⁹ Díaz de la Guardia (2005), p. 449.

²⁰ The main reference on the history of the Archive of the Royal Chancery Court of Valladolid, on which this account relies, is Martín Postigo (1979).

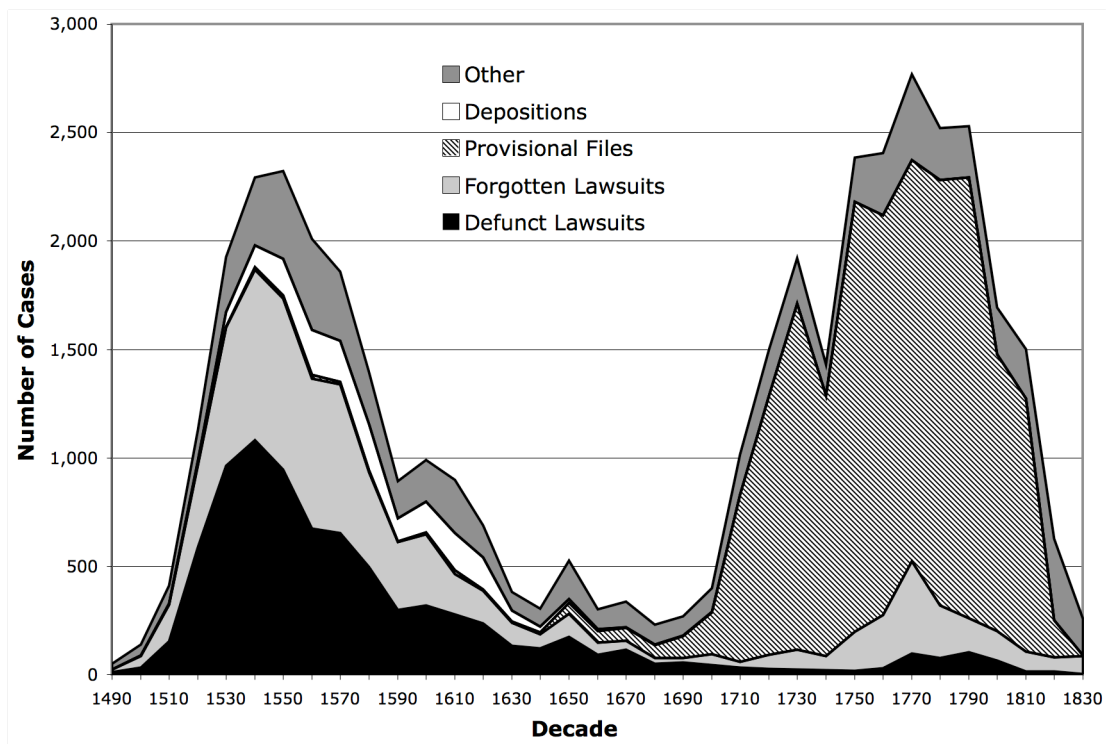
the archive have survived to the present and that the missing ones are evenly spread out over the life of the court, indicating no systematic loss of information.²¹ In contrast, the Archive of the Royal Chancery Court of Granada did not open until forty years after the court closed in 1834; as a result, a large number of cases were lost, and the surviving holdings number less than a quarter than their Valladolid counterparts. This study is limited to cases from the Valladolid court, and hence to its geographical jurisdiction north of the river Tagus (roughly the northern half of Spain).

Figure 1 shows the temporal distribution of the 42,313 cases preserved in the section *Sala de Hijosdalgo* of the Archive of the Royal Chancery Court of Valladolid. Lawsuits proper are classified according to whether a *carta ejecutoria* was issued in the case or not; if a *carta ejecutoria* exists (and hence the *hidalguía* was confirmed), the lawsuit is said to be “defunct” (*fenecido*).²² Otherwise, the lawsuit is called “forgotten” (*olvidado*). Depositions, provisional files and unclassified papers are also shown.

²¹ The checked inventory book was Sala de Hijosdalgo, Libro 81. This is the only book that is cross-referenced to the current catalogue in a systematic way, and hence allowed for the check to be conducted. It contains all the defunct lawsuits from one of the two secretary offices serving the Sala de Hijosdalgo; since cases were randomly assigned to the secretary offices upon being filed, this inventory book constitutes a 50% random sample of all defunct lawsuits. The assistance of Clara Ortego, who worked on the original mapping of the inventory books to the electronic catalogue, was instrumental in designing this check.

²² If the *hidalguía* was denied, the town could always tax the claimant or seize his goods without the need of a royal writ; it is hence safe to assume that all *fenecido* lawsuits did confirm an *hidalguía*. In an extremely rare exception, the town of Medina de Pomar requested a *carta ejecutoria* on the lawsuit it had won against Juan del Campo, its second wealthiest taxpayer, in 1555. The town might have sought additional assurances in view of the wealth, and perhaps power, of its opponent. See SHP 424.4, RE 845.2, PP 68.6.

Figure 1: Cases by type, 1490-1834



Compiled from the catalogue of the Archivo de la Real Chancillería de Valladolid and an unpublished classification table by Eduardo Pedruelo Martín.

Figure 1 reveals that the activity in the *Sala de Hijosdalgo* had two peaks, in the sixteenth and eighteenth centuries, with a prolonged slump in the seventeenth. Lawsuits proper, however, are concentrated only in the sixteenth century, peaking in the decade of 1550, which had a yearly average of almost 200 cases filed, with over half of them resulting in a confirmation of the *hidalguía*.²³

The number of defunct lawsuits is not an exact reflection of the increase in the number of *hidalgo* families. A substantial number of forgotten lawsuits also confirm the *hidalguía*; it is possible that the claimant, having settled his position within the town, did not request a *carta ejecutoria* to avoid further expenses. On the other hand, some lawsuits were filed by legitimate

²³ The second peak is a result of the administrative requirement, enacted in 1703, of obtaining a royal provision before an *hidalgo* could be registered as such in his new place of residence, and hence it does not reflect new ennoblement. See Díaz de la Guardia (2005), pp. 449-450.

claimants whose rights were being infringed; favourable sentences in such cases did not increase the number of *hidalgos* (although unfavourable ones might have reduced it). Finally, it is important to keep in mind that legal proceedings only capture situations of conflict; if someone declared himself an *hidalgo* and no one challenged him, after a few years he would most likely be reputed as such without the need of a lawsuit. As a speaker in the Cortes of 1624 put it:

*The officials of the towns and villages will not dare list anyone in the tax tolls who is prepared to go to litigation, however well known a commoner he is. Thus he is left exempted as if he were an hidalgo, and so becomes one. Contrariwise, if they list an hidalgo who is poor, he cannot litigate and loses his hidalguía.*²⁴

The shape of the distribution is nonetheless consistent with contemporary and historiographical accounts of the swelling of the ranks of *hidalgos* in the sixteenth century.

A glimpse on the composition of Northern Castilian society.

The only relatively firm observation on the number of *hidalgos* in sixteenth-century Spain is the census of households taken in 1590, which revealed that 108,358 out of 897,130 households in the Crown of Castile, about 12% of the total, enjoyed noble status.²⁵ The global figure, however, yields little information about the regional variation in the distribution of *hidalgos*, as well as no insight into the finer distinctions within the noble and commoner ranks.

A rare 1530 tax roll from the town of Briones, in modern-day La Rioja, can provide some additional insight into the matter. This document lists the individual assessments of a direct royal tax (*moneda forera*), which the village paid to the Crown every six years. Unlike most rolls that only list commoners (called “*pecheros*” after the name of the taxes they paid, the *pechos*), this

²⁴ Quoted in Thompson (1987), p. 26.

²⁵ González (1820). A household corresponded to roughly 5 inhabitants, which puts the population of Castile in 1590 at about four and half million. Excluded from this are the roughly 100,000 households of the Crown of Aragon, which had a different nobility structure. See Artola (1993), vol. 6, p. 589.

particular one lists *hidalgos* as well, further breaking down their status into “notable” *hidalgos* (i.e. those whose status no one would dare question), those who had obtained the title by royal privilege, and those who were in possession of a *carta ejecutoria*, all of them duly entered with a zero tax liability. It also identifies “dubious” *hidalgos*, who were assessed taxes as plain taxpayers, but by being listed as such preserved the right to litigate in the future. Table 1 reports the breakdown of this tax roll by the status of the head of household.²⁶

Table 1: Heads of households by status (Briones, 1530)

Status of the head of household	Number	% of Total
<i>Hidalgo households</i>		
Notable hidalgo	125	25.46%
Hidalgo by privilege	3	0.61%
Hidalgo by ejecutoria	1	0.20%
Widow of an hidalgo	32	6.52%
Orphaned son of an hidalgo	7	1.43%
Orphaned daughter of an hidalgo	1	0.20%
Total hidalgo households	169	34.42%
<i>Taxpayer households</i>		
Dubious hidalgo	67	13.65%
Widow of a dubious hidalgo	3	0.61%
Pechero	189	38.49%
Widow of a pechero	25	5.09%
Orphaned son of a pechero	11	2.24%
Pechero woman	6	1.22%
Total taxpayer households	301	61.30%
Clergy	21	4.28%
Total	491	100.00%

Source: tax roll for 1530 contained in PP 137.6.

Even at the early date of 1530, this northern community of approximately 2,500 inhabitants already had 34.42% of *hidalgo* households, with 13.65% more claiming to be such while still

²⁶ As discussed later in the paper, my attention was drawn to Briones because of the elevated number of “distributive” lawsuits emanating from this town. That this peculiar tax roll was compiled might well be a result of such litigation. However, in the over 500 individual lawsuits I have manually examined, I have not come across another tax roll that provides a similar breakdown of the population by social standing.

paying taxes. Of the 169 *hidalgo* households, only one had won its status in the courts, while three had attained it by royal privilege, either bought or conferred. *Hidalgos* were twice as likely as *pecheros* to leave behind widows and orphans; this might possibly reflect the disincentive that kept *hidalgo* widows from marrying anyone but another *hidalgo*, since they would have otherwise lost their noble status. Finally, 28 taxpayer households were exempted from taxes by reason of extreme poverty; their breakdown was 20 *pecheros*, 2 dubious *hidalgos*, 3 widows of *pecheros* and 3 *pechero* women. These figures imply a 9.3% poverty rate among taxpayer households. Since the tax was assessed on a capitation basis, it is not possible to use these data to draw further inference about the wealth distribution of the town.

Figure 2 shows the geographical distribution of all the lawsuits filed at the Sala de Hijosdalgo of the Royal Chancery Court of Valladolid between the 1501 and 1650, by quarter century. The jurisdiction of the Court, the Kingdom of Castile north of the river Tagus, is clearly delineated by the data points.²⁷ The main centres of legal activity were the upper Ebro valley, known as the *Montaña*, (to the northeast of the map) and the western portion of Old Castile, in the provinces of León and Zamora.

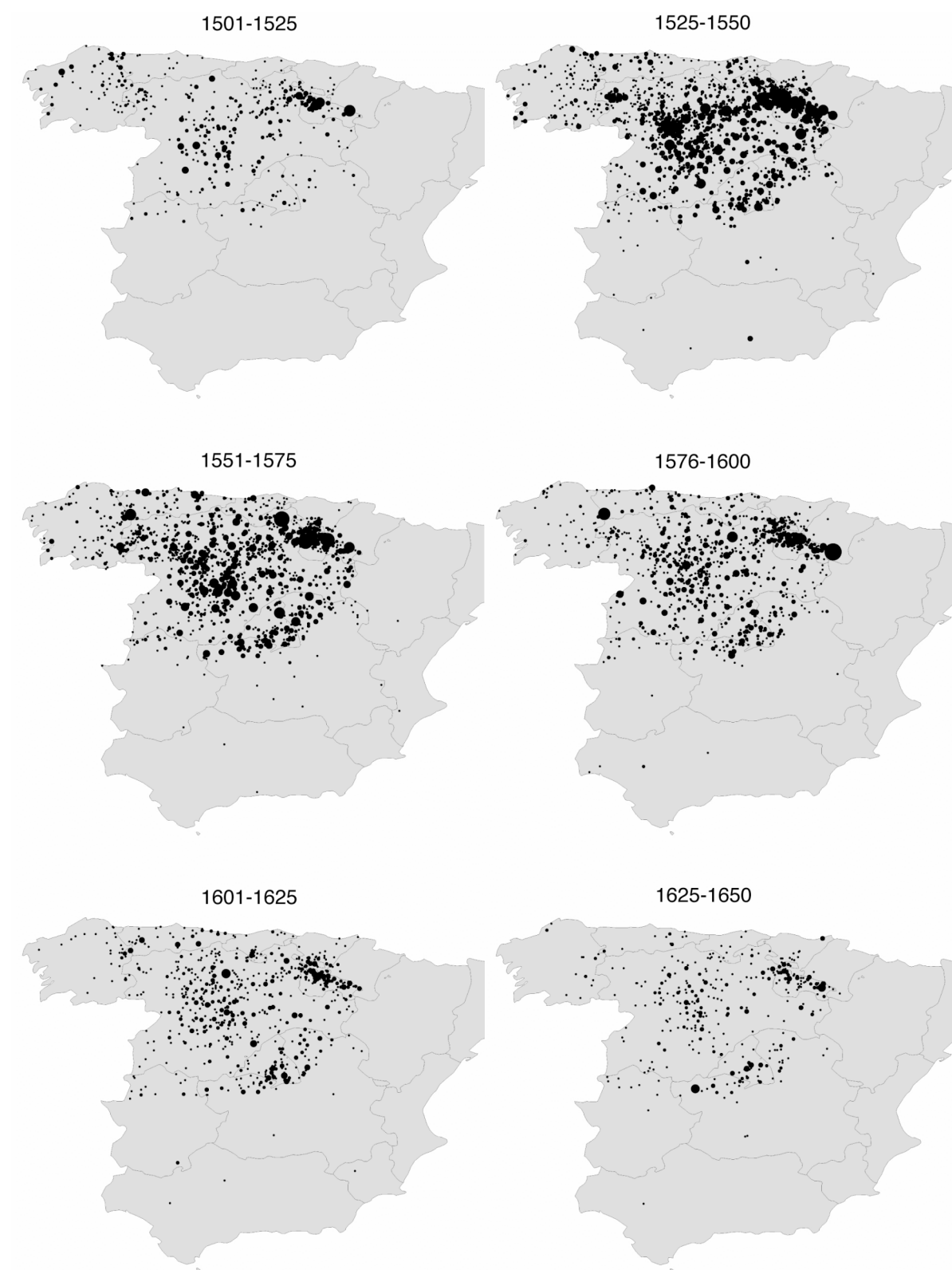
The first noteworthy pattern emerging from the maps is the temporal distribution of legal activity, which parallels the arc of population growth and economic performance in Early Modern Castile. Castilian population grew rapidly in the second and third quarters of the sixteenth century, prompting a shift to more intensive land use, higher urbanization, and possibly higher productivity. This trend started to reverse around 1575, with a marked population decline and a corresponding movement to less intensive farming starting in earnest after 1600. Figure 1

²⁷ Occasionally a lawsuit would be filed from outside these boundaries because the claimant had previously lived in the jurisdiction of the Court and the evidence would be gathered in Old Castile. The boundaries in the maps are the modern Spanish regions (*comunidades autónomas*).

and Figure 2 show that litigation followed a remarkably similar trend. Lawsuits peaked in the third quarter of the sixteenth century, fell slightly in the fourth, and experienced a marked decline after 1600. Such a pattern suggests that any process linking ennoblement to economic performance should focus on a contemporary causal link, and that such a link could well run from economic performance to ennoblement, rather than in the opposite direction often assumed in the literature.

A second point worthy of attention is that, at the beginning and at the end of the period, litigation was roughly uniformly distributed throughout the entire geographical area, with few population centres showing more than a handful of lawsuits; in the years between 1525 and 1600, however, there were several towns with large numbers of filings (shown as larger circles). This concentration of legal activity is the key to the arguments presented in the remainder of the article.

Figure 2: Geographical distribution of lawsuits filed at the Sala de Hijosdalgo



Source: España. Ministerio de Cultura. Archivo de la Real Chancillería de Valladolid. Pleitos de Hijosdalgo.

The nobility lawsuits described in this section all reflect individual bids for *hidalguía*, and constitute only the first piece of the rent-seeking puzzle in Early Modern Castile. The next section studies a different kind of legal proceeding which *hidalgos* and *pecheros* used to jostle for the control of towns and the distribution of the fiscal burden.

3. Distributive conflict

During the Middle Ages, towns and cities enjoyed an extraordinary degree of autonomy that, together with specific prerogatives and tailor-made legal codes (*fueros*), had been granted by the Crown as way of securing widespread support in the war against the Arab kingdoms. Town councils were usually dominated by a commoner elite, which freely ignored the privileges of *hidalgos*, blocking them from access to public office, taxing them, and even banning them from living in their jurisdiction altogether. While such actions violated the nobles' privileges, their concerns were normally shrugged off by the *pechero*-dominated councils, and any royal rulings favourable to *hidalgos* were dutifully acknowledged and promptly ignored.²⁸ After the unification of Spain in 1492, with the Arab threat gone and the larger demands of Early Modern European policy and warfare pressing on its coffers, the monarchy moved to impose a stronger grip on towns, projecting its power through tribunals, marshals and, as in the case of the revolt of the *Comunidades*, full armies if needed.²⁹ *Hidalgos* soon took advantage of the newly found

²⁸ The Spanish legal jargon even contains the expression “*obedezco pero no cumplo*” – I obey but I do not comply – to describe the flagrant flouting of orders from a higher authority. It is most often associated with the administration of Spanish America, where the monarchy could do little to prevent distant viceroys and lower officials from acting as they pleased. For a treatment of the weak position of *hidalgos* within the *pechero*-dominated councils in the late Middle Ages, see Díaz de la Guardia (2005), chapter 3.

²⁹ See Lynch (1991) for an account of the consolidation of absolutist power in early sixteenth century Spain.

strength of royal courts to reclaim their long ignored privileges, demanding access to the government of their towns and trying to shift the tax burden towards commoners.³⁰

Two perennial issues of contention between *hidalgos* and *pecheros* were the allocation of local government posts and the use of town revenues. An old unwritten custom, often toyed with by the *Cortes* and respected by the courts but never written into hard law, established that *hidalgos* and *pecheros* should split evenly the available positions in local government; since *pecheros* were normally much more numerous, the system, known as *mitad de los oficios* (literally “half the offices”), gave enormous influence to *hidalgos*, although it was rarely enforced before the sixteenth century.³¹

Castilian cities were also richly endowed with a particular kind of communal goods called *propios*; unlike actual commons, a local government could enclose or otherwise grant the exclusive use of *propios* to a private party in exchange for a monetary payment. Just as they had bestowed a large degree of autonomy on Castilian towns during the Reconquista, Medieval monarchs had also generously granted them *propios* as way of attracting settlers to the newly recovered lands.³² *Pecheros* in the city government usually tried to use the revenue generated by *propios* to pay the royal taxes allocated to the city and to defray the cost of lawsuits of *hidalguía*.

³⁰ The ennoblement and distributive litigation by which *hidalgos* gained control of the administration of municipal affairs must not be confused with the sale of jurisdictions, a legal figure by which the king relinquished the eminent domain over townships in exchange for a lump-sum payment. The jurisdictions were often acquired by members of the upper nobility, who were invested as overlords of the town and became entitled to collect the royal taxes generated by it. Overlords, however, were often barred from interfering in the day-to-day affairs of the towns they acquired, leaving *hidalgos* and commoners free to jostle over municipal positions. Several lawsuits from Peñafiel, for example, state that people in the payroll of the Duke of Osuna, overlord of the town, were barred from holding municipal office (PAF 538.5, 538.6, 502.3, 329.1). The town of Villalpando also witnessed intense distributive litigation despite being subject to the overlordship of the Enriquez family (SHP 633.22). Brumont (1993) makes the case that the two processes – sale of jurisdictions and fight over municipal offices – did not influence each other. Yun (1987, p. 77-81) argues that overlords treated their domains with the same hands-off approach to municipal matters employed by the king in the royal demesne. For further detail on the sale of jurisdictions see Nader (1990).

³¹ On the system of *mitad de los oficios* see Díaz de la Guardia (2005) and Domínguez Ortiz (1985), p. 129.

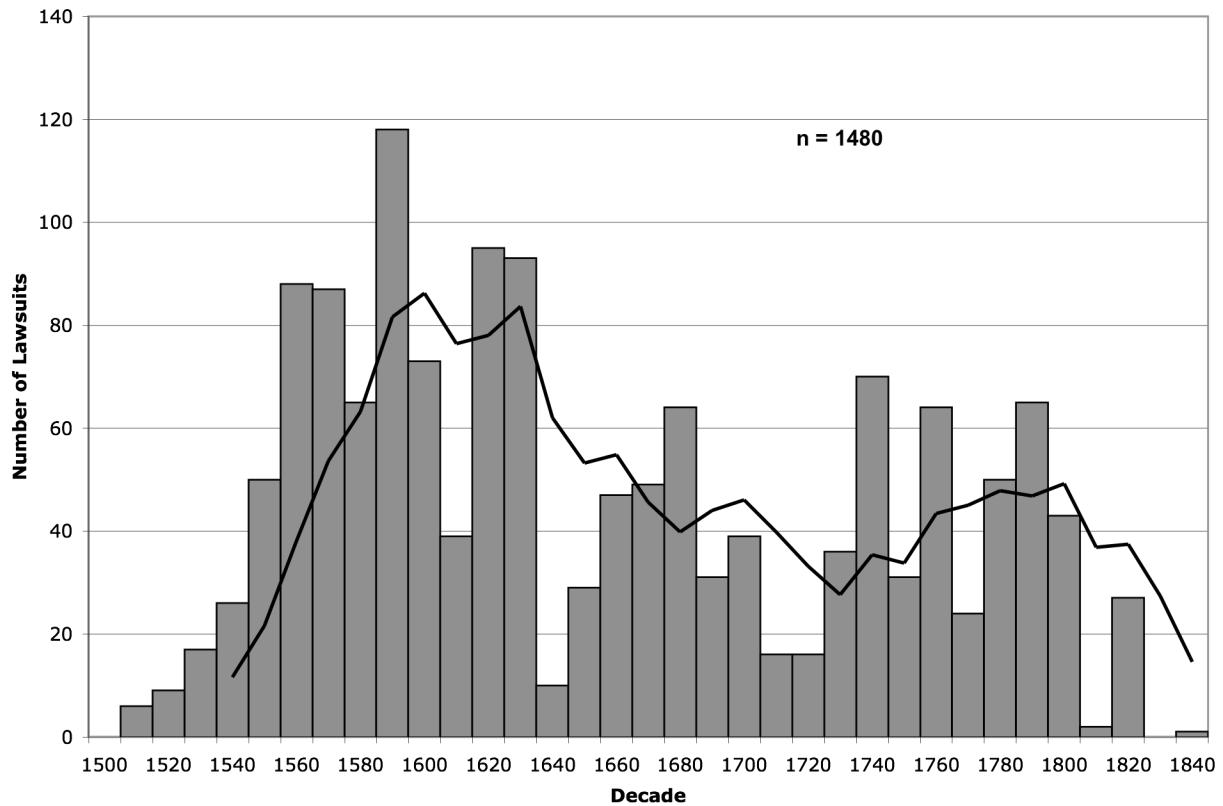
³² On *propios* see Artola (1993), vol. 5, pp. 981-83.

These moves were vigorously contested by *hidalgos*, legitimate ones and self-avowed alike. Established *hidalgos* did not want their share of communal revenue to pay for a tax they were exempt from; claimants of *hidalguía* naturally did not want the communal revenue (in which they too had a stake) to fund lawsuits against their pretensions to nobility.

The key document for the analysis of this distributive conflict is a particular kind of lawsuit in which *hidalgos* and *pecheros* took part as collective units (*estados*). For lack of a better word, I use the term “distributive” to refer to these lawsuits (as opposed to the individual “nobility” lawsuits described in the previous section). Figure 3 shows their temporal distribution.³³

³³ The way to identify distributive lawsuits in the database of the Archive of the Royal Chancery Court is to exclude those lawsuits to which an individual was a part, as individuals could only sue in the Sala de Hijosdalgo if their nobility was in question, and not because of distributive matters. Because of the peculiarities of the search engine, which does not allow searches by exclusion, I identified distributive lawsuits as those in which one of the parties is formed by *hidalgos* as a collective, and the other by *pecheros*. I also allowed either *hidalgos* or *pecheros* to be replaced by village authorities, such as *alcaldes*, *regidores* or *justicia*. The search strings used on the database of the archive were: the *hidalgos*, the state of the *hijosdalgo*, those who call themselves *hidalgos*, *hidalgo* neighbors, the officers of the *hijosdalgo*, the *pecheros*, the state of the *pecheros*, *pechero* neighbours, the mayor, the council, the justice. While in principle this methodology does not guarantee that the identified lawsuits would have dealt with distributive issues, a 10% hand check resulted in finding only distributive lawsuits.

Figure 3: Estimate of distributive lawsuits and 5-period moving average³⁴



Source: catalogue of the Archivo de la Real Chancillería de Valladolid.

Distributive lawsuits follow a similar progression to that of lawsuits proper during the life of the Chancery Court, peaking in the late sixteenth century and then declining to about half their peak level. Most towns in my sample were only involved in distributive litigation once or twice, with a record 9 cases registered by Briones between 1529 and 1570. The remainder of this section uses six examples to illustrate the workings of distributive lawsuits and their impact on the finances of towns. The examples are purposefully drawn from areas with distinct geographical, economic

³⁴ These lawsuits were heard by both the Sala de Hijosdalgo and the four civil chambers of the Royal Chancery Courts. The civil chambers were served by twelve secretaries (*escribanos*), but only the lawsuits held by two of them were fully catalogued by the archive at the time of writing (Fernando Alonso and Pérez Alonso). However, since cases were assigned on a strictly random basis to the different secretaries, the catalogued ones can be safely taken to be a one-sixth random sample of the population. To estimate the total number, I multiplied the catalogued cases from the civil chambers by six, and added the cases from the Sala de Hijosdalgo (which is fully catalogued). For a description of the random assignment mechanism to the secretaries, see Aulestia (1667), pp. 36-41.

and administrative features. They suggests that distributive litigation, often followed by large levels of ennoblement, was a phenomenon that pervaded small and medium-sized Castilian towns regardless of their geographical location, eminent domain status, and predominant economic activity.

The *hidalgos* of Medina de Pomar, a medium-sized town in the jurisdiction of Burgos, won a ruling in 1553 preventing the council from paying royal taxes out of *proprios* revenue, and granting them half of the town's offices.³⁵ The commoners fought back, arguing that the city had never made a distinction between *hidalgos* and *pecheros* (which should be taken to mean that *pecheros* never respected the privileges of the few existing *hidalgos*). They also denounced the numerous commoners who were taking advantage of the situation to call themselves *hidalgos*, thus producing a sharp increase in nobility lawsuits filed against the town. The court nonetheless sided with the nobles, confirming their right to half of the town's positions and ruling that legal expenses had to be paid out of direct taxes assessed on commoners.

Distributive litigation was often followed by a flurry of ennoblement lawsuits. Commoners who had formerly been excluded from the town government tried to join the *hidalgo* camp to gain political voice, and incumbents in town government tried to retain control by seeking ennoblement themselves. The commoners of Medina de Pomar, for example, bitterly complained that soon after the first distributive lawsuit was filed

*"[...] those who were then holding public office pretended to be hidalgos and tried to hold on to their offices, saying that they held them as hidalgos, appointing to office others who pretend the same, and excluding those who do not hide the fact that they have paid taxes in the past."*³⁶

³⁵ SHP 828.2.

³⁶ SHP 828.2.

The combination of nobility and distributive litigation was a heavy burden on the town's finances, and by the end of the 1550s Medina de Pomar found itself effectively unable to continue defending the massive amount of lawsuits it faced; its common resources were depleted, and its social and political structure was radically altered as well.³⁷

In Briones the distributive conflict dragged on longer and, in a significant difference, the town was allowed to cover legal expenses out of *propios* revenue at least until 1571, despite vigorous opposition from the *hidalgos*.³⁸ The protracted battle was taking its toll, though, and by 1570 the town already owed over 50,000 *maravedíes* in legal expenses and had resorted to authorizing the logging of an entire woodland, a precious resource in barren Castile, to raise an additional 15,000. Attorneys for the town also reported that many lawsuits had to be dropped for lack of funds.³⁹ From a 1572 filing, we learn that the town had incurred large debts with private residents to keep the wheels of the Chancery Court spinning.⁴⁰ The document also reports that, in the rush to raise money, many *propios* had been leased for less than half the amount they would have normally fetched (although malfeasance on the part of town officials was also suggested).

The *pecheros* of Briones made one last stand in 1589, trying to keep *hidalgos* out of positions of power by interpreting in a peculiar way the requirement that the nobles hold at least half of the town's offices. Town officials manoeuvred to place *hidalgos* in those offices that would be regarded as incompatible with nobility, such as innkeeper and tax collector. Such a move had no chance of success, and after a swift intervention by the Chancery Court, the *hidalgos* firmly

³⁷ See section 5 for a detailed discussion of the economics of nobility litigation in Medina de Pomar.

³⁸ Several lawsuits result in or refer to royal provisions authorizing the town council to use *propios* to cover legal expenses. See SHP 675.9 (1529), SHP 1546.6 (1554), SHP 70.17 (1563), SHP 162.3 (1571).

³⁹ SHP 641.3.

⁴⁰ SHP 50.11. This lawsuit also gives a detailed account of the town's budget. Its total annual income was slightly over 50,000 *maravedíes*, all of which were committed to the payment of salaries and repairs. Except for an attorney on its regular payroll, all legal expenses had to be funded out of extraordinary income.

established their right to hold at least half of the honourable positions in the town, and with them a sufficient amount of power to control its resources. After that date, no further distributive lawsuits were filed by residents of Briones.⁴¹

Very similar situations are evident from the lawsuits originating from the group of towns known as the Hermandad de Montes de Oca, near Burgos. Like Medina de Pomar, the *hermandad* (brotherhood) experienced a flurry of litigation after the first distributive lawsuits resulted in the introduction of direct taxes and shared power around 1535, with over 60 commoners claiming *hidalguía* between 1540 and 1550; and like Briones, it eventually ran out of money to defend its lawsuits, but not before selling or leasing its communal assets and incurring large debts.⁴²

The three we have examined are clustered in a relatively compact geographic region in the upper Ebro valley, an area characterized by intensive farming and comprised mostly in the royal demesne (*realengo*). The same pattern, however, holds true for towns with very different characteristics. One example is Peñafiel, located in the Duero valley east of Valladolid. The town is in an area of fertile plains that lend themselves to more extensive agriculture and cattle breeding. It was subject to the overlordship of the Duke of Osuna, who collected the royal taxes generated by the town but was barred from interfering in its internal affairs. The record does not show when the *hidalgos* of Peñafiel secured their right to hold half the town's offices, but we

⁴¹ SHP 1632.1. Since in many places appointments to public office could not be refused under penalty of prison, commoners hoped to place *hidalgos* in the dilemma of declining to serve, thus breaking the law, or accepting offices incompatible with nobility. The mandatory character of public service was often used to punish one's enemies; in 1654, for example, Luis de Vega was appointed by the mayor of the town of Valderas, in the jurisdiction of León, as a collector of the excise on wine. Being illiterate, de Vega could not hope to discharge his duty in any meaningful way, but he was nonetheless imprisoned for refusing it. He then appealed to the Royal Chancery Court, claiming that, being an *hidalgo*, he was nonetheless exempt from acting as a tax collector. See SHP 1982.9.

⁴² The distributive conflict in the Hermandad de Montes de Oca is documented in SHP 685.6, SHP 100.13, SHP 656.15, PP 200.1 and PP 200.2. In SHP 656.15 the King's prosecutor denounced the fact that most claimants of *hidalguía* were acting as one another's witnesses and attorneys and that witnesses brought to Valladolid to testify in favor of the claimants were regularly treated to luxurious accommodations and meals right before their court hearings.

know it was in place by 1532, the date of the first distributive lawsuit. The litigation in Peñafiel revolved around the troubles the *hidalgos* encountered with filling all the offices allocated to them. The commoners had in fact obtained a Chancery Court ruling that mandated term limits of one year for most town officials and imposed a waiting period of two or three years before officials could be reelected. Furthermore, all persons in the employ of the Duke of Osuna were barred from serving in public office, as were those associated with the butcher shops, some of whom were *hidalgos* despite the clearly manual nature of the occupation. As a result, the few *hidalgos* of Peñafiel often found themselves unable to fill the offices allocated to them. In an underhanded attempt to retain their half of the town's offices, *hidalgos* resorted to nominating minors, prisoners or even exiles. The commoners fought these manoeuvres time and again, managing to retain their control of the town's finances. Their success discouraged people from becoming *hidalgos*, and hence there were few ennoblement lawsuits in Peñafiel.⁴³

A second revealing case from the Castilian plains is that of Villalpando, a thriving mercantile centre in the Tierra de Campos (an area comprised of parts of the modern provinces of Zamora, Valladolid, Palencia and León) subject to the overlordship of the Enríquez family. The town had experienced a large wave of ennoblement in the 1530s, with fully 23 lawsuits filed in 1535 alone. No distributive lawsuits survive from that period in the catalogued portion of the archive; a distributive lawsuit from 1568, however, provides an invaluable window onto the size of the resources at stake in distributive litigation.⁴⁴ The lawsuit was initiated by the commoners, who asked the town's treasurer (an office under *hidalgo* control) to supply 37,500 *maravedíes* to pay for legal expenses relative to nobility litigation. When the treasurer refused, the court ordered

⁴³ The distributive lawsuits from Peñafiel that support this account are SHP 783.36 and PAF 329.1, 502.3, 503.1, 538.5, 538.6.

⁴⁴ SHP 633.22.

him to provide a detailed account of the annual revenues the town derived from *proprios*. The total amounted to a staggering 443,013 *maravedíes* per year, mostly from land and woodland rents. The control of such resources was a prize well worth fighting over.⁴⁵

In a final example, the council of Ibias, a region dotted with small villages in mountainous Asturias, did not witness any nobility lawsuits until 1571. From then to 1595, 69 families – virtually the entire commoner population of the council – claimed *hidalguía*. A distributive lawsuit from 1572 tells a story that is in many ways the mirror image of that of Peñafiel. Asturias was one of the most ancient provinces of Castile, and it had a high proportion of nobles – in Ibias, *hidalgos* made up around 90% of the population in 1571.⁴⁶ *Hidalgos* used their position of dominance to saddle commoners with most of the fiscal burden of the town, reducing sales taxes, which *hidalgos* paid, to a minimum while increasing direct taxes.⁴⁷ Commoners reacted by claiming nobility, and the record shows they largely succeeded. In Ibias tax redistribution was the proximate cause of ennoblement. Yet the events do not fit the story of an exogenous increase in royal taxation that sustains the treason of the bourgeoisie argument, and they are still consistent with a local rent-seeking view of ennoblement.

The six communities studied above represent many of the varied physical, productive and political environments of Old Castile. They were not isolated cases; the archival record shows that several other towns found themselves in similar situations. Díaz de la Guardia (2005) documents a similar pattern for Southern Spain as well.

⁴⁵ This amount excludes taxes and revenues from the fairs, which accrued directly to the overlords of the town and were not under the control of the town council (Yun 1987, p. 77, 82-86). The amount of those resources was also sizable, and many towns sought to retain control over them by purchasing their own charter of cityhood when the king decided to sell their jurisdiction (Nader, 1990).

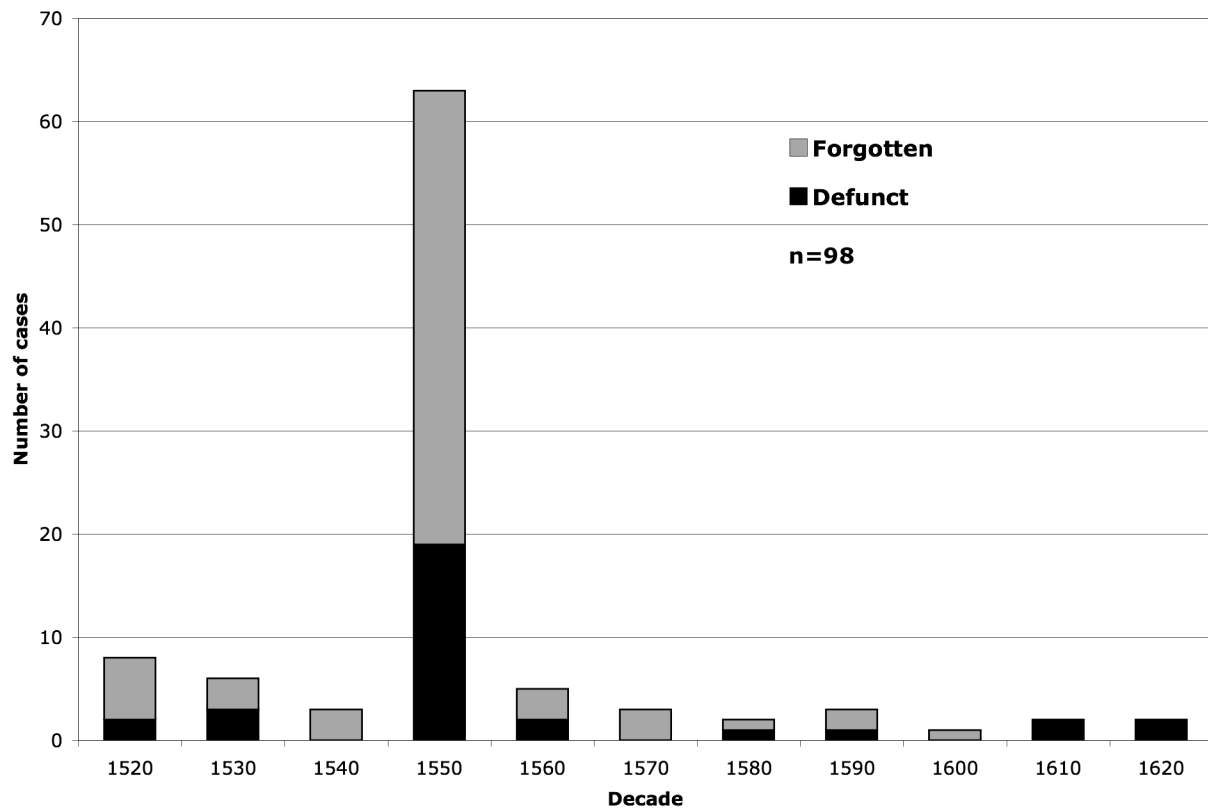
⁴⁶ See SHP 21.5.

⁴⁷ SHP 447.20 describes how the *hidalgo*-dominated town council redefined the fiscal obligations of the town to the Crown, shifting their burden to direct taxes.

4. The subjects, motives and timing of ennoblement.

Who sought ennoblement, why did they seek it, and what motivated their timing? We can answer these questions by examining the abundant nobility litigation in Medina de Pomar. The choice of this town was entirely dictated by its excellent archival record. In order to identify the socio-economic extraction of litigants and their success rates, I need to match them to at least two different tax rolls several years apart. Portions of tax rolls were sometimes filed by towns to show that a claimant of *hidalguía* had paid taxes in the past, but complete tax rolls are rare, and only for Medina de Pomar was I able to find two of them within a meaningful period. In all other respects, however, Medina de Pomar is an average Castilian town, and its pattern of litigation is found repeatedly throughout Castile. The distribution of nobility lawsuits involving its residents is shown in Figure 4.

Figure 4: Lawsuits of *hidalguía* in Medina de Pomar, 1490-1630



Source: catalogue of the Archivo de la Real Chancillería de Valladolid.

The legal activity emanating from Medina de Pomar would clearly not be worthy of mention if it were not for the 1550s. A closer look at the 63 lawsuits filed between 1550 and 1559 further reveals that fully 41 of them were filed in 1554 alone. The key to the flurry of litigation is found in a 1553 distributive lawsuit in which *hidalgos* won half the offices of the town:

*In this town there has never been a difference between hidalgos and pecheros because all the pechos (direct royal taxes paid by the town to the Crown) were always paid from communal revenues until one and a half years ago, when it was ordered that they should not be paid from communal revenues.*⁴⁸

In another document related to the same dispute, several witnesses were asked how many households were there in the town, and how many of them were headed by *hidalgos*. All but one

⁴⁸ SHP 828.2. In a similar case, we learn that the small town of Villalobos, in the jurisdiction of Montes de Oca, was also free of direct taxes until 1540. See SHP 679.1.

of them reported that the town counted about 300 households (roughly 1500 inhabitants), of which no more than 3 or 4 were from *hidalgo* lineages; the last witness put the numbers at 350 households and 6 or 7 *hidalgo* ones.⁴⁹ Immediately after the distributive lawsuit allocated half the offices to nobles and reinstituted direct taxation about 20% of the population of Medina de Pomar claimed *hidalguía*, and the town found itself in the uncomfortable position of having to defend over sixty lawsuits with limited resources. This type of behavior, repeated throughout many Castilian towns between 1525 and 1600, produced the concentration of lawsuits evidenced in Figure 2. After the fact, the optimal decision might well have been not to fight back; at the time, however, those in power decided to do otherwise.

Matching litigants to tax rolls.

The opening salvo in the battle of Medina de Pomar was a request filed in 1554, asking the Royal Chancery Court to authorize a special contribution of 15,000 *maravedíes* to pay for the several lawsuits it had to fight. Despite the vigorous opposition of those claiming to be *hidalgos*, the Chancery Court granted the request, with the added provision that all those who were not in firm possession of an *hidalguía* should be included in the assessment.⁵⁰ Since no lawsuit filed in 1554 had yet been decided, and since individual contributions were determined in rough proportion to individual wealth, the tax roll that was drawn as a result is an excellent tool to determine the socio-economic extraction of those who filed for *hidalguía*.⁵¹

⁴⁹ SHP 707.2. Most of the witnesses were former town officials, including a former mayor, which lends some credibility to their estimates. These figures are consistent with the 1590 census (González, 1820).

⁵⁰ SHP 653.107.

⁵¹ The 1554 tax roll is found in PP 68.5. While the general rule was that richer people should receive a higher assessment, the tax assessor, who was appointed by the town council, had a large degree of discretion in determining individual tax bills. Since the situation was being closely monitored and there were no cries of outrage over unfair assessments, it does not seem unreasonable to assume that the rule was largely observed.

I started by looking for the name of everyone who filed a lawsuit between 1550 and 1559 in the 1554 tax roll. Unlike the list from Briones, this one was compiled with the utmost care to identify each taxpayer with fully spelled first and last names. Common names were supplemented with the neighbourhood in which the person lived, and sometimes with their profession as well. As a result, I have been able to uniquely match 50 of the 63 claimants to the tax roll, almost an 80% success rate; the missed matches are spread in almost exact proportion to the cases filed each year and hence do not pose any bias concerns.

I then used a 1562 tax roll corresponding to the regular royal tax (the first extant one after 1554) to determine whether the people in my matched sample were still paying taxes eight years later. I defined a litigant as “unsuccessful” if, despite having filed a lawsuit, he or she was still being assessed direct taxes by 1562. Conversely, if the litigant was no longer in the tax roll, I called him or her “successful.” Unlike the 1530 document from Briones, the tax rolls of Medina de Pomar did not list neighbours without any tax liability, and so the meaning of “success” needs to be qualified: while winning an *ejecutoria* would certainly make someone a successful litigant by this measure, so would dying, becoming poor, relocating to a different town, or simply being missed in the matching exercise. Unsuccessful litigants, on the other hand, are a sharp lower bound on the ability of the town to keep claimants of *hidalguía* within its tax rolls.

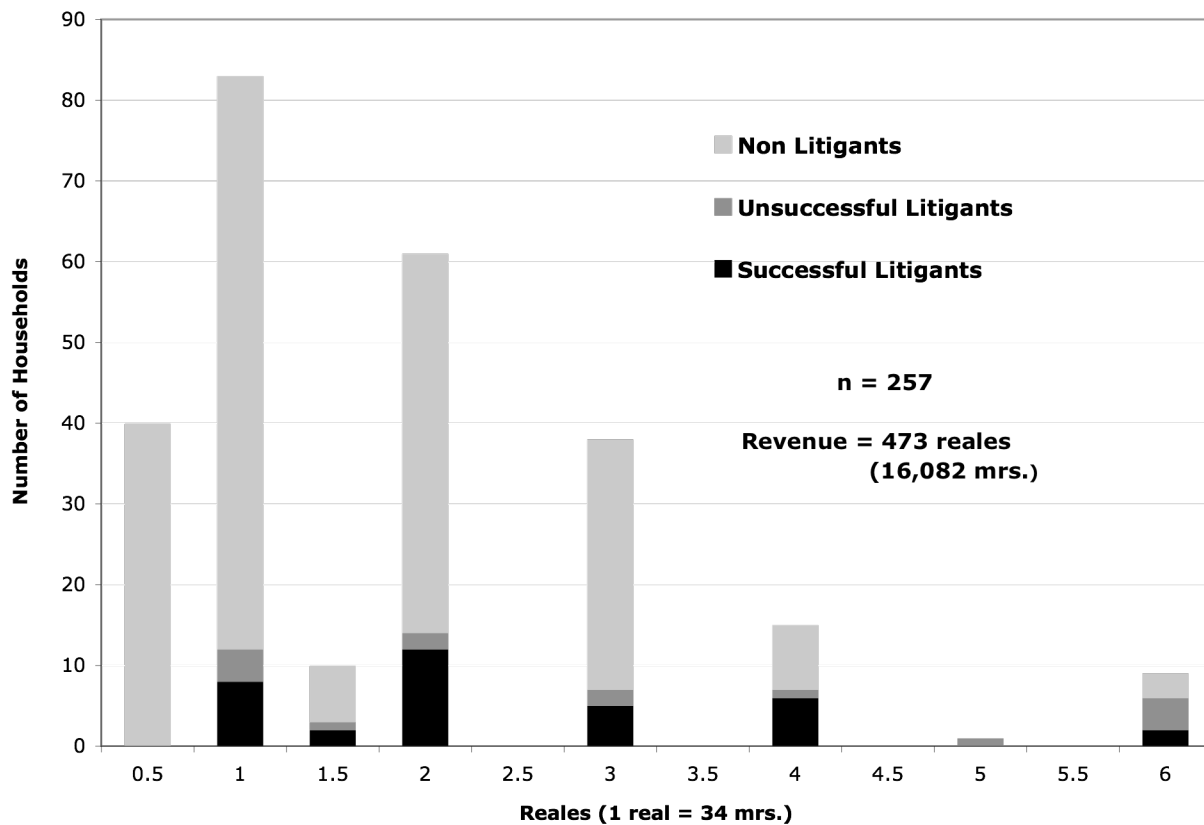
For the purposes of the 1554 extraordinary tax, the population of the town was divided into 8 brackets; at the lower end, people were taxed in increments of half a *real* (1 *real* = 34 *maravedíes*). After the 2 *reales* bracket, tax liability was assessed in increments of one *real*, with a maximum of six *reales*. A total of 257 households were assessed; the remaining ones would have been *hidalgo*, poor, or might have been exempted for other reasons. If the poverty rate had been similar to the 9.3% observed in Briones, these numbers would be strongly consistent with

the witness accounts that put the population of the town at about 300 households, of which between 3 and 7 would have been *hidalgo*. Overall, slightly over 16,000 *maravedíes* of tax liability were assessed; while this exceeded the 15,000 authorized by the court, the extra amount was probably meant to compensate for potential non-payers.

Figure 5 shows the distribution of the tax liability that emerges from the 1554 tax roll, further broken down by the litigant status of the household. The implied distribution of wealth has a very plausible shape; the 1562 tax roll suggests an even more skewed distribution, since some of the households that were assessed at the maximum of six *reales* in 1554 were even further to the right when the total tax bill allowed for it.⁵²

⁵² Since the court had allowed the town to assess anyone without an *ejecutoria* for the purposes of the 1554 extraordinary contribution, town officials might have wanted to tax as many households as possible as a way to strengthen the case for denying them *hidalgo* status. As a consequence, the tax bill of the richer households might have been kept artificially low to ensure that every taxable household in the lower wealth brackets was assessed at least some tax, while not exceeding the maximum revenue allowed by the court.

Figure 5: Distribution of tax liability by litigants – Medina de Pomar, 1554.

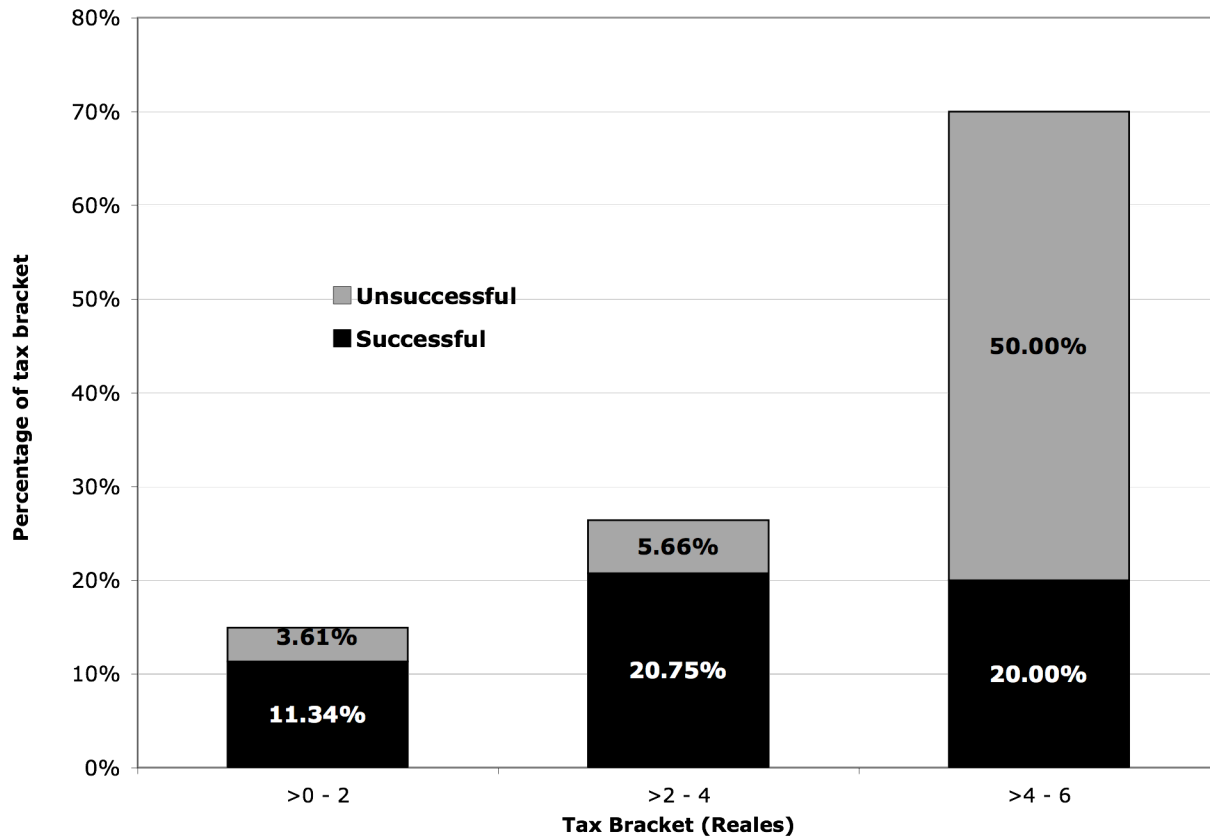


Source: Catalogue of the Archivo de la Real Chancillería de Valladolid and the tax rolls for the years 1554 (PP 68.5) and 1562 (PP 68.6).

The above data allow to examine the town's strategy for fighting the avalanche of lawsuits.

Figure 6 divides the population into 2-reales tax brackets, and reports the percentage of each tax bracket that filed a lawsuit of *hidalguía* between 1550 and 1559, further broken down by whether they were successful or not as defined above.

Figure 6: Litigants as percentage of tax bracket



Source: See text.

It is clear that richer households were much more likely to claim being *hidalgo*; 70% of households in the highest tax bracket filed a lawsuit, while only 14.95% of those in the lower bracket did. It is also apparent that those in power directed the town's legal efforts to keep the wealthy households out of the ranks of *hidalgos*. Two thirds of the households in the upper bracket of the 1554 assessment who claimed *hidalguía* were still paying taxes in 1562; in comparison, only one quarter of the lower income households who filed lawsuits during the 1550 decade were still in the 1562 tax roll. Securing noble status was not a guaranteed outcome, especially for the rich.

A cursory glance at the data might suggest that the traditional interpretation of ennoblement was not too implausible; changes in the fiscal burden were, after all, contemporaneous with claims of

nobility.⁵³ A closer study of the taxation data and the costs of litigation, however, reveals that drawing such an inference would be incorrect. The main problem with the traditional argument is that the value of direct taxes was not nearly high enough to justify by itself the trouble and expense involved in acquiring an *hidalguía* through the judicial route. As the sixteenth century progressed the Crown left the direct tax burden virtually untouched while concentrating its fiscal efforts in the increase of indirect taxes and the imposition of levies collected through the church, both paid by commoners and *hidalgos* alike.⁵⁴ In Briones, for example, the wealthiest commoners paid less than 300 maravedíes per year in royal direct taxes in 1568.⁵⁵ In Medina de Pomar, with the exception of one person who paid 1,200 maravedíes, no one was assessed over 375 maravedíes in 1580.⁵⁶ Such sums were equivalent to about a week of an urban labourer's wages, a sum that, as the following analysis shows, could not justify the cost of a lawsuit of *hidalguía* even under the most favourable assumptions.⁵⁷

The returns to ennoblement.

Obtaining a precise estimate of the total cost of a lawsuit is an arduous task, as no clear information survives in this respect. A 1570 estimate by a royal auditor put the cost of the average lawsuit at 24,000 *maravedíes*, while Kagan (1981), using evidence from civil cases, reached a very similar value.⁵⁸ The evidence from nobility lawsuits is consistent with these

⁵³ In many towns no new taxes were levied, but old taxes were redefined to fall on commoners rather than on nobles. This is the case of Medina de Pomar and Ibias in my sample.

⁵⁴ The standard source on Castilian fiscality in the second half of the sixteenth century is Ulloa (1977).

⁵⁵ PP 37.13.

⁵⁶ PP 68.6. The person who received a 1,200 maravedíes assessment was Juan del Campo, who had sued the town for an *hidalguía* in 1554, but lost. His lawsuit is SHP 424.4.

⁵⁷ Labourer wages for the relevant years in Old Castile are available in Hamilton (1934). In 1568 they were 68 mrs. per day, while in 1580 they were 60 mrs. per day.

⁵⁸ Kagan (1981), p. 39.

figures. In one of the cases from Medina de Pomar, the council was sentenced to reimburse the costs of Francisco Barbero, whose claim had been successful, in the amount of 9,000 *maravedíes*.⁵⁹ That figure did not include the fee for the issuance of the *carta ejecutoria*, which was often the single most expensive item of the entire lawsuit, and the final payment to the court's reporter – at least an additional 3,000 *maravedíes* by Kagan's count. That the city was sentenced to reimburse Barbero was most unusual; in all other cases from Medina de Pomar, litigants had to cover their own costs.⁶⁰ The Barbero case was also short and expeditiously settled, which would have placed it on the cheap end of the spectrum. Data from other locations suggest that costs were even higher. The lawsuit of Francisco Daza from Peñafiel cost 24,660 *maravedíes* in 1580, excluding the costs of the *carta ejecutoria*.⁶¹ A single deposition in the lawsuit of Mariano García, from Villalpando, in 1535 cost 50,124 *maravedíes*.⁶² And litigation records from Ibias mention a lawsuit that would have cost 300 ducats – 112,500 *maravedíes*.⁶³

So what was the rate of return on ennoblement if only the resulting tax exemption is considered? Let's take the wealthiest taxpayers from Medina de Pomar, who paid 375 mrs. per year in direct taxes. Assume that there was no risk of losing the lawsuit (although two thirds of the wealthy residents of Medina de Pomar who filed actually lost), and that there was also no risk of the city challenging the *hidalguía* further down the road (which was not an unusual occurrence). Assume

⁵⁹ These costs are reported in a loose paper, SHP 1923.1, containing a 1556 legal filing against the mayor of the town, who was refusing to levy a special contribution to pay the judgment. The lawsuit in question is SHP 743.7. Since Mr. Barbero had won it before 1554, he was not included in that year's special levy, and so we don't know in what particular tax bracket he would have fallen.

⁶⁰ The norm was for parties to lawsuits to cover their own costs. One party to a suit could be sentenced to reimburse its opponent if the judges found it had litigated in bad faith. All cases from Medina de Pomar were individually checked to determine cost assessments.

⁶¹ SHP 100.16.

⁶² SHP 20.3.

⁶³ SHP 27.14.

as well that the claimant was completely altruistic about his offspring and considered the *hidalguía* a perpetual stream of tax relief, and that he expected direct taxes to remain constant in real terms (when in fact their value was steadily being eroded by inflation). Finally, assume an impossibly cheap lawsuit, costing in all 5,000 mrs. (when all indications are that the cheapest lawsuits would have easily more than doubled that figure), and abstract from the foregone interest on the legal costs during the proceedings (which could drag on for several years). Such a setup is equivalent to a risk free perpetuity paying 375 mrs. per year in return for an initial investment of 5,000 mrs.; this would imply an annual rate of return of 7.5%, barely higher than what most relatively safe bonds paid at the time, and below what could be obtained in the mortgage market.⁶⁴ With less extreme assumptions, it becomes impossible to justify the cost of a ennoblement relying on tax exemptions alone – even in those cases in which more than one claimant was included in the same lawsuit. In a more realistic (but still quite optimistic) case assuming a cost of 12,000 mrs., a 50% chance of losing the lawsuit and no other risks or delays, the rate of return would drop to a negligible 1.5% per year. For the vast majority of people whose tax assessments were not as high, the fiscal rates of return to ennoblement would have been even lower. In short, the tax exemptions could not have been a motive behind the lawsuits.

Litigation and city size.

As discussed in the previous sections, distributive litigation points to political access and the redistribution of rents as the main source of the value of ennoblement. To further buttress this argument, it is worth noting that the vast majority the nobility lawsuits heard by the *Sala de*

⁶⁴ A wealthy sixteenth century Castilian would have been able to use a variety of lending devices to earn interest on capital. The most popular private alternative was a form of mortgage – the *censo* – while, for larger sums, purchasing long term bonds from the Crown – the famed *juros* – was also an option. *Juros* provided a relatively safe return of *catorce mil al millar* – 7.14%. Yun (1987, p. 257-8) puts the yield of “perfectly safe and solvent” censos in Tierra de Campos at 9.9% per year, at least until the 1590s.

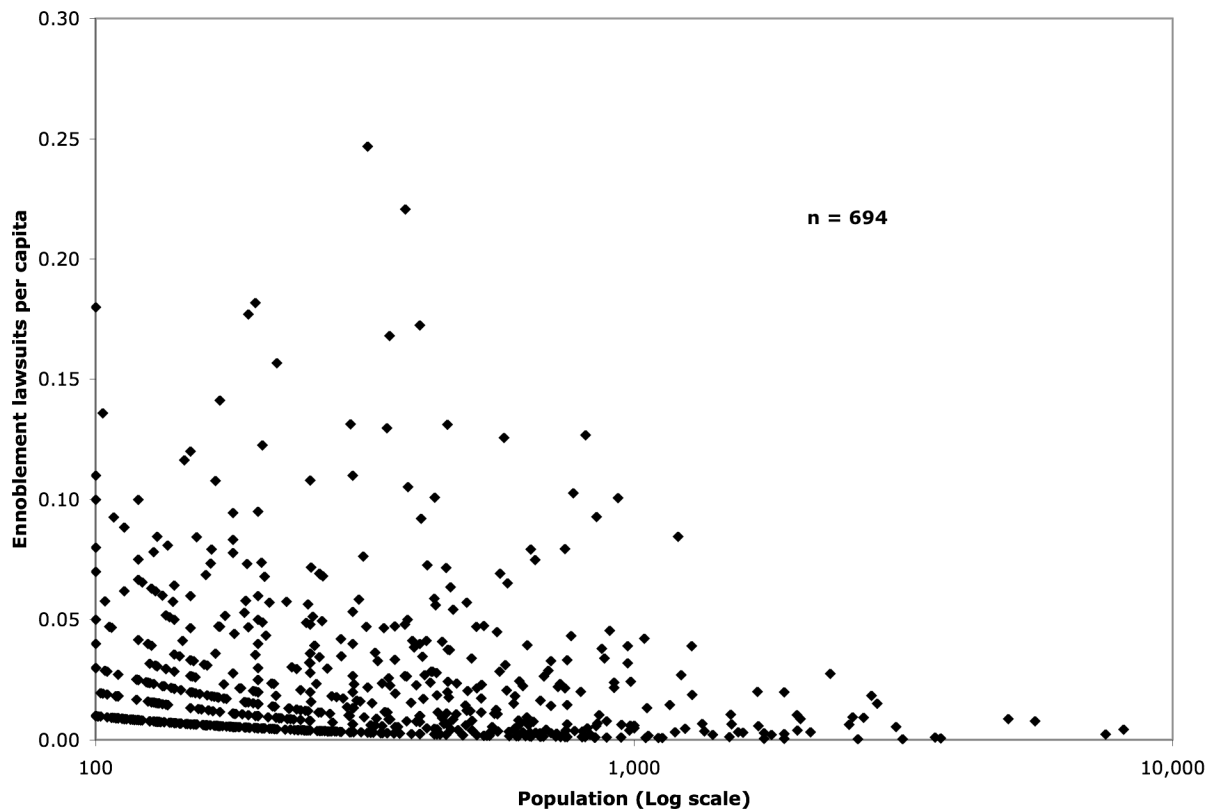
Hijosdalgo originated in small and medium-sized communities not unlike Briones or Medina de Pomar. The large cities of Northern Castile, among which were the economic and administrative powerhouses of Madrid, Valladolid, and Burgos, exhibit a negligible number of cases when compared to small provincial towns, and none of them show a pattern of concentrated lawsuits like the one exhibited by Medina de Pomar.

We can explore the relationship between population size and litigation per capita taking advantage of the population census of 1590, known as the “Censo de Tomás González” (González 1820). To use this source, I first looked up the population of each city, town and village in my database in the census. The census coverage is not uniform, and neither is the quality of its data. The coverage is sparser for smaller towns, and for the extremely litigious *Montaña*; both shortfalls, however, work against finding a negative relationship between litigation rates and population size. The reporting units in the census are either provinces or bishoprics; the bishopric data has a large proportion of round numbers, raising questions about its quality. I conducted the estimations both with and without them and verified that the results were not significantly affected. Finally, since Castile experienced large demographic changes in the early years of the seventeenth century due to plagues and internal migrations, I restrict the analysis to litigation that took place during the sixteenth century.

One point of concern is that the limitations of both the census and my own data do not allow for any kind of comprehensive sampling of towns without litigation. This creates a bias, as a possibly large number of small villages would not have experienced litigation, and hence my estimates of average litigation per capita in small cities would overstate the true value. The bias disappears as the population grows, as larger towns were more likely to experience at least one lawsuit in the course of 100 years. To minimize its impact, I focus on towns and cities with a

1590 population greater than or equal to 100 households (roughly 500 people); it would have been unlikely for towns of that size not to have experienced any nobility litigation at all in the entire sixteenth century. As a further safeguard, the count-based discussion that follows Figure 7 is immune to this bias.

Figure 7: Lawsuits per capita and population (cities with more than 100 households, 1500-1600)

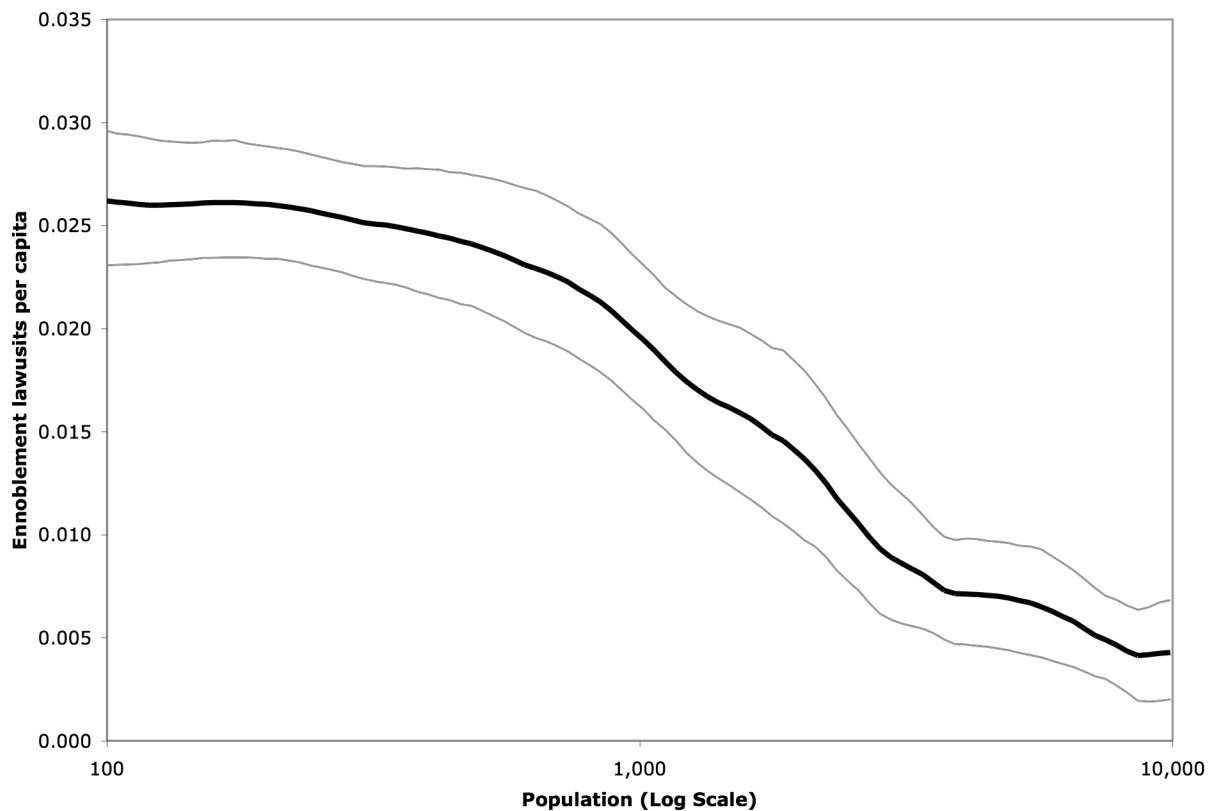


Source: España. Ministerio de Cultura. Archivo de la Real Chancillería de Valladolid. Pleitos de Hijosdalgo. González (1820)

Figure 7 shows a scatter plot of lawsuits per capita against population for cities reported to have 100 households and over in the 1590 census. The plot shows a clearly negative relationship between population and litigation rates. Only one out of 48 cities (2.08%) with more than 1,000 households had a litigation rate above 5% (Alfaro, in modern-day La Rioja, with 1207 households). By contrast, 92 out of 645 towns (14.3%) with between 100 and 1,000 households

exceeded the 5% litigation rate. Figure 8 shows a non-parametric regression of lawsuits per capita on log population using the above data (the horizontal scale in both figures has been converted to show actual population numbers for ease of interpretation).⁶⁵ Once again, the relationship is clearly negative.

Figure 8: Kernel regression of lawsuits per capita on log population



Source: See text.

If tax exemptions had motivated the flight to nobility there would have been no reason for such a clear pattern in the geographical distribution of lawsuits. The distributive motive, on the other hand, is much more consistent with the data. The reason is that the government of large cities was already in the hands of nobles and grandees; hence they would have generated no incentives for distributive and nobility litigation. But as the case of Villalpando (743 households, 72

⁶⁵ The nonparametric regression was conducted using an Epanechnikov kernel with a bandwidth equal to 0.5. The thinner lines show 95% confidence intervals obtained by using a bootstrapping technique with 1,000 iterations.

lawsuits) and its yearly income of over 440,000 maravedíes shows, medium-sized towns had attractive enough resources to justify their capture via ennoblement.

The decline of litigation

Several factors combined to reduce the number of nobility lawsuits by the end of the sixteenth century. The marked increase in the number of *hidalgos* had become a concern for the Crown, which in 1593 intervened by adding a number of costly and time consuming hurdles to *hidalguía* litigation, thereby reducing the expected payoff for litigants.⁶⁶ Direct taxes had also remained frozen in nominal terms since 1539 in the face of widespread inflation, while the bulk of the fiscal burden had gradually shifted to sales and excise taxes, which *hidalgos* were not exempt from. In addition, after the experiences of Medina de Pomar and a number of other towns, local governments probably learnt that opposing claims to municipal offices by *hidalgos* would result in ruinous legal battles. They would have therefore chosen to reach an accommodation with the *hidalgos* rather than fighting them in court. With the costs of obtaining an *hidalguía* on the rise and its benefits constantly eroded, ennoblement ceased to be an attractive proposition. Finally, the economic slowdown of the late sixteenth and early seventeenth century would have likely reduced the value of appropriable resources in Castilian municipalities. The fall in litigation, however, did not bring about the decline of *hidalguía* as a mark of social distinction. The title of

⁶⁶ The most important rules imposed by Philip II in 1593 were a) that all witnesses travel to Valladolid to be personally examined by one of the three judges rather than having an itinerant court official depose them in their hometowns; b) that when a witness was unable to make the trip, one of the three judges travel to take a deposition; c) that all “dubious” *ejecutorias* issued in the last 20 years be revised and, if justified, revoked. While the extent of the enforcement of this last requirement is unclear, the other two (and many minor ones) were certainly a major factor in increasing the length and cost of the proceedings. The judges protested the new norms, but the king imposed his will. See CP 5.5 and CP 5.7.

hidalgo was hereditary, and its lustre persisted well into the nineteenth century. , relieved, from 1783 on, of the legal (if unenforced) incompatibility with any kind of profession.⁶⁷

5. Conclusion.

The institution of *hidalguía* emerged during the late Middle Ages as a product of the war against the Arab kingdoms; distinguished military service was rewarded with an honorific title, the advantages of which included tax exemptions, legal privileges and an ongoing commitment to serve in times of war. The prohibition of engaging in “vile” or “mechanical” occupations, though of unclear origin, was intended to keep *hidalgos* well trained in the military arts.

Over time, the concept of *hidalguía* came under pressure from several directions. The grant of universal privileges to certain areas, such as Biscay, made it difficult for everyone to honour the technical requirements of the title. By the sixteenth century the entire peninsula was in Christian hands, all but ending the intermittent episodes of small-scale warfare to which *hidalgos* had been normally summoned, and the changes in military technology required the creation of armies with an increasing degree of time commitment and professionalism.⁶⁸ While *hidalguías* were sometimes used to reward special favours or monetary contributions, most notably by Henry IV Trastámara (r. 1454-1474), the Catholic Kings (r. 1474-1516) revoked most of the privileges granted in such fashion, and the institution seemed headed towards an opaque decline.

The revival and rapid expansion of *hidalguía* during the sixteenth century was traditionally blamed on supposedly indiscriminate sales of patents by Charles V and Philip II. Although that argument has been proved wrong by Thompson (1979), no alternative explanation has surfaced

⁶⁷ The legal (though unenforced) incompatibility of *hidalguía* with manual professions was eliminated in 1783. See Thompson (1987), p. 29.

⁶⁸ On Spain’s role in pioneering the military revolution of the sixteenth century see Parker (1976).

to replace it. Using legal cases argued before the Valladolid Royal Chancery Court, I have further shown that tax exemptions, while a welcome bonus for an *hidalgo*, in most cases could not justify the time, expense, or risk involved in a lawsuit of *hidalguía*.

The sixteenth century ushered in a renewed assertion of royal power, spearheaded by the Catholic Kings and consolidated under Charles V and Philip II. As a result, towns that had previously met royal tax obligations from their communal properties were increasingly forced to impose direct taxes on their commoners. *Hidalgos* were also successful in reclaiming their right to half of towns' offices, backed by the Royal Chancery Courts when needed.

In the cases where litigation flared, the conflict over local control could easily deplete the resources of the towns, which were spent fighting nobility and distributive lawsuits. Distributive and ennoblement litigation came at a time when municipal resources were strained. Many towns had indeed gone to great financial efforts to purchase their charters of cityhood from the Crown; doing so prevented local overlords from capturing their royal tax streams but did lead to heavy debts (Nader, 1990). Despite legal strategies aimed to keep the richest (and possibly most powerful) neighbours on the tax rolls, towns could not hope to defend the dozens of lawsuits that piled up against them over the years. Many of them must have chosen not to fight, as their ruling elites reluctantly consented to a redistribution of resources for the sake of avoiding an even larger reduction in both their own personal income and in the town's wealth.

The archival record is silent on the efficiency implications of the redistribution; there is nothing to indicate that *hidalgos* would have made better or worse administrators of town property or, in the case they embezzled or appropriated public resources, that they would have diverted them from their most productive use. There is also little support for the "treason of the bourgeoisie" hypothesis; while *hidalgos* took pride in their title and ostensibly complied with all its

requirements, I have been unable to find a single piece of evidence showing *hidalgos* being stripped of their privileges for engaging in banned professions. Quite to the contrary, several documents casually mention *hidalgos* freely engaging in “mechanical and vile” activities throughout Spain; of course, in the areas that enjoyed universal *hidalguía*, such occurrences were almost a tautology.

The number of *hidalgos* did in fact grow substantially during the sixteenth century. By 1600 at least 6,221 *ejecutorias* had been issued for Northern Castile alone, each representing the start of a new *hidalgo* lineage or the confirmation of one whose purity had been challenged. Since *ejecutorias* do not include self-avowed *hidalgos* who were not challenged or whose lawsuits were dropped by the towns, they represent just a lower bound on the number of families that established themselves as part of the petty nobility. The rest of the traditional wisdom regarding *hidalgos*, though, needs to be thoroughly reexamined. Tax incentives seem to have had little to do with ennoblement; distributive conflict, often dismissed as inconsequential, played an important role; and although the misallocation of talent argument holds some appeal, what evidence is available suggests that occupational restrictions were widely ignored. Finally, while substantial redistribution certainly took place at the local level, and some localities suffered large losses through litigation, these processes seem unlikely candidates in explaining the prolonged population decline and economic stagnation that Castile experienced in the seventeenth century.

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All primary source references are from the holdings of the Archivo de la Real Chancillería de Valladolid. The abbreviations corresponding to the different sections of the archive are:

SHP: Sala de Hijosdalgo – Pleitos

PAF: Perez Alonso - Fenecidos

PP: Protocolos y Padrones

RE: Registro de Ejecutorias

CP: Cédulas y Pragmáticas

Figures 2, 7 and 8 were compiled on the basis of an extract of digital entries from the catalogue of Archive of the Royal Chancery Court of Valladolid pursuant to an agreement for the use of electronic databases between the University of British Columbia and the Ministry of Culture of Spain. It is cited as “España. Ministerio de Cultura. Archivo de la Real Chancillería de Valladolid. Pleitos de Hijosdalgo.” All other figures compiled on the basis of the catalogue of the Archive of the Royal Chancery Court of Valladolid employ data retrieved through publicly accessible interfaces.

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